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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

LEE, DIANE I

ART UNIT PAPER NUMBER

2876

DATE MAILED: 01/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/403,072

Applicant(s)

KNEPPLE ET AL.

Examiner

Diane I. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 19 January 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 19 January 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7,8
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

1. Receipt is acknowledged of the Preliminary Amendment filed 19 September 2000. Claims 3-8 have been amended, no claims have been newly added. Currently, claims 1-9 are pending in this application.
2. Receipt is acknowledged of the PCT international search report with a citation of a prior art EP-088,914 A1 as an "X" reference dated 09/21/83.

Drawings

3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.
4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following features must be shown or the feature(s) canceled from the claim(s):
 - (a) "a printer" as specified in claim 3 is not shown;
 - (b) "a means of UV light" as specified in claim 4 is not shown;
 - (c) "the identification applied along with numerals and/or letters" as specified in claim 7 is not shown; and
 - (d) "the identification applied in the form of numerals and/or letters" as specified in claim 7 is not shown.

No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

5. The abstract of the disclosure is objected to because of the followings:

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- (a) Line 1: "The invention refers to a method" should be changed to --A method--.

Correction is required. See MPEP § 608.01(b).

6. The disclosure is objected to because of the following informalities:

- (a) Page 1, line 2: --FIELD OF THE INVENTION--should be inserted;
- (b) Page 1, line 5: --BACKGROUND OF THE INVENTION--should be inserted;
- (c) Page 3, line 3: --SUMMARY OF THE INVENTION--should be inserted;
- (d) Page 6, lines 15-16: "The invention shall now ... drawings." should be changed to --

BRIEF DESCRIPTION OF THE DRAWINGS--; and

- (e) Page 6, line 21: "DESCRIPTION OF THE PREFERRED EMBODIMENTS--.

Appropriate correction is required.

Claim Objections

7. Claim 6 is objected to because of the following informalities:

- (a) Re claim 6, line 3: "it" should be changed to --said bar code". Appropriate correction is

required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1, line 2: the phrase "the sample container *may be* heated to an operating temperature" is vague and indefinite. The phrase does not particularly point out nor distinctly claims the invention.

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Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1 (as best understood) and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ono [JP 05-000,821 A].

Re claim 1: Ono discloses a method of providing sample containers (bottle 1) with an automatically readable identification for an analysis device (reading device 11 for an identification and classification), in which the sample container may be heated to an operating temperature, comprising:

in the manufacturing process of the sample container (i.e., when the bottle material is blown to form a bottle 1), the identification during the final cooling phase of the ready sample container is applied in a temperature interval between a maximum temperature (i.e., during the sample container manufacture) and the operating temperature, e.g., the bottle material is blown during the "hot end" of the bottle manufacturing process and subsequently, the bottle is gradually cooled to form a bottle during "cool end" of the bottle manufacturing process. During the cool end of the process, a bar code 6 is applied. Since a maximum temperature would be provided at the hot end of the bottle manufacturing process (i.e., during the sample container manufacture), the identification is inherently applied in a temperature interval between a maximum temperature and the operating temperature (see the abstract).

Re claims 5-6: wherein the identification is applied in the form of a bar code applied annually onto a cylindrical portion of the sample container such that the bar code 6 is readable along the cylindrical axis (see the abstract and figures 3-6).

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Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claims 2 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ono. The teachings of Ono have been discussed above.

Re claim 2: Ono is silent with respect to the specific temperature interval, i.e., between 300°C and 600°C.

However, it would have been an obvious variation to an artisan of ordinary skill in the art at the time the invention was made to vary the temperature in order to provide specific desired strength of the container. Varying temperature of the bottle material would alter the strength characteristic and the formation of the bottle. Accordingly, it would have been an obvious extension taught by Ono.

Re claim 7: Ono does not disclose the identification is applied along with numerals and/or letters.

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to apply the applied the identification along with numerals and/or letters due to the fact that an optical reading process includes bar code reading, optical character reading (i.e., numerals and/or letters).

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image reading, magnetic strip/tape reading, and etc. Therefore, providing the identification along with numerals and/or letters would have been an obvious extension taught by Ono for the purpose of providing additional information. Accordingly, it would have been an obvious expedient.

Re claim 8: Ono does not disclose the identification is applied in form of numerals and/or letters.

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to substitute the bar code reading process of Ono with an optical reading process by providing the identification code in form of numerals and/or letters in order to eliminate the computing process in the decoder. Accordingly, it would have been an obvious expedient.

15. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ono in view of Dickfeld [de32 41 489 A]. The teachings of Ono have been discussed above.

Ono fails to teach the identification is applied by a printer with ink that can be read by means of UV light.

Dickfeld teaches a method of marking and identifying a container 1 such as liquid medicines, pharmaceutical compositions, and like (see the abstract). Dickfeld teaches that the identification is carried out by applying coded colored marks or inks containing transparent dyestuffs which obviously applied from a printing means, and the identification code are identified by illuminating with an Ultra-Violet (UV) light source and scanned by a photocells (see the abstract).

It would have been an obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the marking and identifying method taught by Dickfeld in the teaching of Ono in order to provide an identification that do not interfere with the visual control of the contents of the container.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Trogdon [US 4,270,863] disclose a method of applying an identification label during the final cooling station of the molding the container:

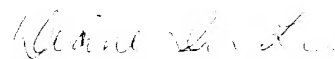
Mathias et al. [US 3,745,314], Juvinal [US 4,230,266], and Ahl et al. [US 4,691,830] discloses a process of molding the container and the applying the identification thereon; and

Brandt et al. [US 5,458,714] and Rubin [US 4,476,381] discloses a label printed with inks and applied to the container.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diane I. Lee whose telephone number is 703-306-3427. The examiner can normally be reached on Monday through Friday from 6:30 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



Diane I. Lee
Examiner
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January 26, 2002